



City Council Agenda Report

FROM: Nat Rojanasathira, Assistant City Manager

SUBJECT: Third Public Hearing to Receive Public Input Regarding the Composition of City Councilmember Districts After Draft Map or Maps are Drawn and on the Potential Sequence of Elections for Staggered Terms of Office (Not a Project Under CEQA per Article 20, Section 15378 and Under General Rule Article 5, Section 15061)

RECOMMENDATION:

That the City Council conduct the Third Public Hearing to Receive Public Input Regarding the Composition of City Councilmember Districts After Draft Map or Maps are Drawn and on the Potential Sequence of Elections for Staggered Terms of Office.

POLICY IMPLICATIONS:

Conducting multiple public hearings for the implementation of by-district elections is required under State law. The City's policy is to uphold the federal and California constitutions and to take all steps necessary to ensure equal protection under the law and the right to vote. In addition, this public hearing supports the City Council's value driver to "Foster a local government that is transparent and collaborative; and solicits, welcomes, and appreciates input from all" as well as "working to improve the quality of life of all of our community members by fostering diversity, equity, and inclusion."

FISCAL IMPLICATIONS:

Sufficient funds are available for staff and a consultant to conduct this public hearing and additional public engagement efforts to shift from an at-large to district-based election system. Staff estimates the cost for this unbudgeted and unplanned work program to range between \$75,000 and \$100,000, excluding staff time. The unbudgeted cost for this program will be included as a modification in the Mid-Year Budget adjustments.

ENVIRONMENTAL DETERMINATION:

The City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment,

this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

ALTERNATIVES:

The City Council could choose not to conduct the public hearing or to postpone this item. However, this is not recommended, as this third public hearing is required to meet the legal timeline for implementing district-based elections.

DISCUSSION:

Overview

The City of Monterey currently utilizes an at-large election system. This means that all voters, no matter where they live in the City, have a say in electing every member of the City Council. A district-based election system is one where the City is divided into separate geographical areas making up the districts, and voters residing within the district elect a representative who also resides within the district. On November 16, 2021, the Monterey City Council adopted Resolution 21-119, indicating its intention to convert to a by-district system (see Attachments 6 and 7).

At the first public hearing on district-based elections held on December 7, 2021, the City Council voted to direct that the mapping process proceed with four councilmember districts and a mayor at-large (see Attachment 4). This approach is consistent with the City's Charter, which states: "The Council shall be comprised of the Mayor and four (4) Councilmembers and shall be the legislative body of the City." A second public hearing was held on December 21, 2021 to receive public feedback before draft maps were drawn and presented to the public.

On December 28, 2021, four (4) draft maps were published online at www.haveyoursaymonterey.org/districting and physically posted at the agenda posting board outside the City Council Chamber (580 Pacific Street), as well as the windows to the front entrances of the Monterey Public Library (625 Pacific Street), El Estero Park Center (777 Pearl Street), Casanova Oak Knoll Park Center (735 Ramona Street), and Scholze Park Center (280 Dickman Avenue).

The third public hearing was scheduled for January 4, 2022 but was not held due to a clerical error with the posting of the Spanish-language Public Hearing notice in the *Monterey Herald*. Instead, the City Council took the opportunity on January 4 to hold a Public Appearance (general public discussion) to review the four draft maps and learn more about the sequencing of elections.

The third public hearing will be held on January 18, 2022, at which time the City Council will receive additional public feedback on the draft maps and discuss the potential sequence of elections for staggered terms of office.

Criteria for Creating Districts

The City must comply with several mandatory criteria when the districts are created. These factors include: there must be population equality across districts (no greater than a 10% deviation), race cannot be the "predominant" factor or criteria when drawing districts, and

minority voting rights may not be diluted, in compliance with the Federal Voting Rights Act (FVRA).

In addition, the California Elections Code requires to the extent practicable that district lines be adopted that meet the following criteria: districts are geographically contiguous, communities of interest are maintained, boundaries are easily identifiable, districts are geographically compact, and boundaries do not favor or discriminate against a political party. The criteria for creating districts were further explained in the December 7, 2021 Agenda Report (Attachment 4).

Public Hearing and Engagement

To avoid a California Voting Rights Act (CVRA) lawsuit, final maps must be adopted by February 16, 2022, which is a modified timeline extended pursuant to a Tolling Agreement executed between LULAC and the City. Therefore, the fifth and final Public Hearing will be held at the Regular Meeting of the City Council on February 15, 2022. The public hearing process, with set requirements for each public hearing, is mandated under State law. The current schedule is attached (see Attachment 2).

Since early November 2021, the City has been working to educate the public and seek feedback from the community to help plan, draw, and define councilmember districts, and provide feedback on the districting process. The City's website about the districting process is on the City's "Have Your Say Monterey" public engagement portal at haveyoursaymonterey.org/districting. On this portal, the public can learn about the process, ask questions, review the implementation timeline, download "Communities of Interest" forms and draft maps to complete and submit, view draft and proposed district maps when available, and read all public comments submitted to the City on the districting process.

Other outreach efforts include social media posts, e-mail blasts, media releases, live video updates from the City Manager, a postcard mailer to all households, a mapmaking station at the Monterey Public Library, a virtual neighborhood engagement and community workshop held on December 9, 2021, and print advertisements in the *Monterey Herald*, *Monterey County Weekly*, and the region's Spanish-language newspaper, *El Sol*.

Public hearing notices, agenda reports, and essential documents are also available and have been published in Spanish, in accordance with State law.

Draft Maps

The City's public engagement process encouraged community members to provide feedback on their Communities of Interest and potential councilmember district boundaries. As of January 5, 2022, the City received 24 proposed district map submissions using the Community Mapping Tool ("placemats"), 12 completed Communities of Interest Forms, and over 50 e-mails and letters. All submitted feedback, including correspondence from the public, can be viewed and downloaded at www.haveyoursaymonterey.org/districting.

The City's demographer, Redistricting Partners, used the information from the publicly-submitted Communities of Interest Forms and councilmember district maps from the public to develop four (4) draft map plans, named Abalone, Bat Ray, Cuttlefish, and Dolphin. Each draft map shows four (4) potential councilmember districts. All draft maps developed by the City's

demographer are in compliance with criteria mandated by State and Federal law, including population equality across districts (no greater than a 10% deviation).

On December 28, 2021, the draft maps were published online and physically posted at the City Council Chamber, Monterey Public Library, El Estero Park Center, Casanova Oak Knoll Park Center, and Scholze Park Center.

Recommendation: The City Council is asked to receive public feedback on the four (4) draft maps and choose one map to move forward in the process. Modifications or changes to the map could be directed to Redistricting Partners for consideration, as long as it meets legal requirements.

Potential Sequence of Elections

During the public hearing process, in addition to selecting a final councilmember district map, the City Council will also identify which two districts will hold district-based elections in 2022 and which two will hold district-based elections in 2024 (the “sequencing schedule”). The map and sequencing schedule will be included in the districting ordinance, and presented for public input and consideration at first and second readings as reflected in the public hearing timeline (details in Attachment 2).

Legal requirements

Pursuant to Elections Code section 10010(b), in determining the final sequencing schedule, the City Council shall give special consideration to the purposes of the California Voting Rights Act of 2001 (protecting the ability of a protected class to elect candidates of its choice) and it shall take into account the preferences expressed by members of the districts.

How are the new district areas phased in?

Councilmembers whose terms expire in 2022 will continue to serve the City at-large for their elected terms, and will have the opportunity to run for district-based seats in November 2022, provided they reside in one of the two districts scheduled for that election.

Councilmembers whose terms do not expire until 2024 will continue to serve the City at-large for their elected terms, and will have the opportunity to run for district-based seats in November 2024, provided they reside in one of the two districts scheduled for that election.

What happens if multiple current councilmembers live in the same district?

If multiple incumbents live in the same councilmember district, and an election is held in that district in 2022, the incumbents are eligible to run for election in that district along with any other candidates. The person who receives the most votes will win the seat for that district (and the four-year term that goes with it), while any losing incumbent will drop off the City Council, either immediately if their elected term expires in 2022, or in 2024 if their elected term expires in 2024. In other words, even if a current councilmember whose elected term ends in 2024 is defeated in a bid to win a district-based seat in 2022, he will continue to serve on the City Council as an at-large councilmember until his elected term expires. If a current councilmember whose elected term ends in 2024 wins a district-based seat in 2022, then he would resign his at-large seat. The vacancy would be filled pursuant to Charter section 2.5 which provides in part that “[a] vacancy

in an elective office shall be filled by appointment by the Council, such appointee to hold office until the next General Municipal Election and until a successor is elected and installed.”

What happens if no councilmember resides in a district?

After the sequencing schedule is adopted, if no councilmember resides in a district scheduled for the November 2022 election, then only non-incumbents will be qualified to run for election in that district. If no councilmember resides in a district scheduled for the November 2024 election, that district will continue to be represented by the remaining at-large councilmembers until 2024 when its first district-based election will be held.

Recommendation: Once one of the four draft maps is selected to move forward in the process (with potential modifications), Council will provide feedback on the sequencing schedule. Two (2) districts will be selected to hold elections in 2022 and the remaining two (2) districts will be selected to hold elections in 2024.

Next Steps

At the third Public Hearing on January 18, 2022, the City Council will hear from its demographer, Redistricting Partners, about the public feedback received and how draft maps were developed. The City Council will also receive public comments regarding the maps and sequencing.

It is recommended that the City Council choose one map to move forward in the process. Any modifications or changes to the map could be directed to Redistricting Partners for consideration, as long as it meets legal requirements. It is also recommended that the City Council provide direction on a sequencing schedule to correspond with the final map.

At the fourth Public Hearing on February 1, 2022, Redistricting Partners will introduce the draft final map for the City Council’s consideration. The introduction and first reading of the ordinance establishing and implementing by-district elections, including the sequencing schedule, would be held during this meeting. The sequencing direction is determined by the City Council per Elections Code 10010(b).

The fifth and final Public Hearing on February 15, 2022 would involve the City Council holding a second reading of the ordinance. No changes to the map as presented and published can be made at this meeting.

- Attachments:
1. Atlas of Draft Maps – Options (Abalone, Bat Ray, Cuttlefish, Dolphin)
 2. Current CVRA District Election Timeline
 3. Agenda Report – Second Public Hearing (December 21, 2021)
 4. Agenda Report – First Public Hearing (December 7, 2021)
 5. Agenda Report – Districting Process (November 16, 2021)
 6. Agenda Report – Resolution of Intention (November 16, 2021)
 7. Resolution of Intention – City of Monterey Resolution No. 21-119 (Adopted November 16, 2021)
 8. Informational Flyer - Council District Election Process
 9. Communities of Interest Form and Community Mapping Tool

Attached Spanish Language Translations

Agenda Report – Third Public Hearing (January 18, 2022)

Current CVRA District Election Timeline

Agenda Report – Second Public Hearing (December 21, 2021)

Agenda Report – First Public Hearing (December 7, 2021)

Agenda Report – Districting Process (November 16, 2021)

Agenda Report – Resolution of Intention (November 16, 2021)

Resolution of Intention – City of Monterey Resolution No. 21-119 (Adopted November 16, 2021)

Informational Flyer - Council District Election Process

Communities of Interest Form and Community Mapping Tool

Writings distributed for discussion or consideration on this matter within 72 hours prior to the meeting, pursuant to Government Code § 54957.5, will be made available at the following link:

<https://monterey.org/Submitted-Comments>.